

### **REMARKS**

In the Final Office Action mailed May 14, 2008<sup>1</sup>, the Examiner rejected claims 1-20 under 35 U.S.C. § 102(b) as being anticipated by Mault et al. (U.S. Patent No. 6,513,532, "Mault '532"), which incorporates by reference Mault (U.S. Patent No. 6,478,736, "Mault '736").

By this Amendment, Applicants propose amending claims 1, 7-10, 12-14, 17, and 18. The originally-filed specification fully supports the amendments to the claims. Therefore, this Amendment does not introduce any new matter. Upon entry of this Amendment, claims 1-20 will remain pending and under current examination.

### **Examiner Interviews**

Applicants thank the Examiner for his courtesy in granting telephonic interviews with Applicants' representatives on June 24 and July 29, 2008. During the interviews, proposed amendments to the claims were discussed.

In the interviews as well as in the Final Office Action, the Examiner indicated that the claim term "unit" has been interpreted as software. Accordingly, Applicants have amended the claims to additionally recite hardware, i.e., "one or more processing devices," configured to implement each of the claimed units. Applicants submit that such amendments require that the features of each claimed "unit" implemented by the "one or more processing devices" constitute material limitations and are not mere "intended use/functional language," as previously asserted by the Examiner.

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<sup>1</sup> The Final Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Final Office Action.

**Rejection of Claims 1-20 under 35 U.S.C. § 102(b)**

Applicants respectfully traverse the rejection of claims 1-20 under 35 U.S.C. § 102(b). Mault '532, incorporating Mault '736, fails to disclose each and every feature of claims 1-20. Independent claim 1 has been amended to recite an apparatus for supporting a user's behavior, comprising, among other things, "at least one of the one or more processing devices configured to implement a behavior schedule reorganization unit to reorganize the user schedule by referring to the behavior rule, wherein at least the route schedule is reorganized, an exercise being inserted into a time segment of the reorganized route schedule." The cited references at least fail to disclose the above feature of claim 1.

Mault '532 discloses a "diet and activity-monitoring device" (Mault '532, abstract). Mault '532 further discloses that the activity monitoring can include monitoring running routes for a user (Mault '532, col. 9, lines 30-56) through a GPS unit. However, Mault '532 merely discloses that the activity-monitoring device is configured to record and monitor the running routes in a log, but fails to disclose that the activity-monitoring device is configured to reorganize a route schedule. The Final Office Action alleged that "a user could decide to change his activities for the next day by observing the previous logs . . . . The resulting change in the user's daily schedule would be automatically stored in a new daily log as the user acts upon his decisions and would be equivalent to reorganizing a user's schedule, reorganizing a route schedule and inserting an exercise into a reorganized route schedule." Final Office Action, p. 9. Notwithstanding the Final Office Action's allegation, which Applicants do not concede, Applicants submit that there is no disclosure or suggestions in Mault '532 that the activity-monitoring device is configured to reorganize the user's schedule. The activity-

monitoring device merely records the routes in a log. Therefore, Mault '532 fails to disclose or suggest "at least one of the one or more processing devices configured to implement a behavior schedule reorganization unit to reorganize the user schedule by referring to the behavior rule, wherein at least the route schedule is reorganized, an exercise being inserted into a time segment of the reorganized route schedule," as recited in claim 1.

Mault '736 fails to cure the deficiencies of Mault '532. Mault '736 discloses "[a]n improved health management system for a person . . . in which the person's resting metabolic rate (RMR) is determined at intervals using an indirect calorimeter" (Mault '736, abstract). Mault '736 further discloses that "[t]he software provides goals and feedback to the user in relation to weight goals, which are modified by changing values in the metabolic rate of the user" (Mault '736, col. 6, lines 34-36). However, Mault '736 does not teach or suggest that the health management system is configured to reorganize a route schedule. Accordingly, Mault '736 fails to disclose or suggest "at least one of the one or more processing devices configured to implement a behavior schedule reorganization unit to reorganize the user schedule by referring to the behavior rule, wherein at least the route schedule is reorganized, an exercise being inserted into a time segment of the reorganized route schedule," as recited in claim 1.

Furthermore, Mault '532 and Mault '736 fail to disclose or suggest "at least one of the one or more processing devices configured to implement a message generation unit to generate a message to urge the user to do the exercise via the reorganized route schedule by referring to the reorganized user schedule," as recited in claim 1.

At least because Mault '532 and Mault '736 fail to disclose each and every feature of claim 1, claim 1 should be allowed. Claims 2-18 also should be allowed at

least by virtue of their dependency from claim 1. Independent claims 19 and 20, while of different scope, recite features similar to those recited in claim 1. Claims 19 and 20, therefore, should be allowed at least for the same reasons as claim 1. Accordingly, Applicants request withdrawal of the rejection of claims 1-20 under 35 U.S.C. § 102(b).

Applicants respectfully request that this Reply under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-20 in condition for allowance. The proposed amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. Therefore, this Reply should allow for immediate and favorable action by the Examiner.

Further, Applicants submit that the entry of the Reply would place the application in better form for appeal, should the Examiner continue to dispute the patentability of the pending claims.

**Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: August 19, 2008

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